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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA.

Plaintiff,

No. CR 11-0149 PJH

v.

ORDER SETTING EVIDENTIARY HEARING

ZUBERI STEEL,

Defendant.

14 Defendant's motion to suppress came on for hearing before the court on June 8,
15 2011. The court ruled on several aspects of defendant's motion on the record, and
16 deferred ruling on one issue following the hearing. For the reasons set forth on the record,
17 the court ruled that:

18 (1) Officer Sanchez's follow-up inquiry to defendant's spontaneous, voluntary
19 statement at the scene regarding the existence of an object on his right side
20 did not constitute an interrogation in violation of defendant's Fifth Amendment
21 rights:

22 (2) any issue regarding defendant's signed, written statement as provided to
23 Officers Sanchez and Barocio at the jailhouse concerns the weight and
24 admissibility of the evidence and is not a basis for suppressing the evidence
25 given that defendant does not challenge his *Miranda* waiver; and

26 (3) the ATF officers who interrogated defendant only one and one-half hours
27 following Officer Sanchez's and Barocio's *Miranda* admonishment were not
28 required to re-*Mirandize* defendant.

1 However, having reviewed the parties' papers and authorities, and having further
2 considered the arguments, the court determines that an evidentiary hearing is warranted
3 regarding whether reasonable suspicion existed to support a handcuffed *Terry* stop of
4 defendant at the scene, and specifically whether Officer Sanchez "reasonably believe[d]
5 such] force was necessary to protect his own safety or the safety of the public." See
6 *Alexander v. County of Los Angeles*, 64 F.3d 1315, 1320 (9th Cir. 1995); see also *United*
7 *States v. Howell*, 231 F.3d 615, 620 (9th Cir. 2000) (evidentiary hearing on a motion to
8 suppress warranted where "the moving papers allege[] facts with sufficient definiteness,
9 clarity, and specificity to enable the trial court to conclude that contested issues of fact
10 exist").

11 Accordingly, the court will hold an evidentiary hearing regarding the existence of
12 reasonable suspicion for the stop on **Friday, July 15, 2011 at 8:30 a.m.**

13 || IT IS SO ORDERED.

14 | Dated: June 9, 2011

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PHYLLIS J. HAMILTON
United States District Judge